

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CHAMBER SUMMONS NO. 16 OF 2005

IN
SUIT NO. 2470 OF 2002

Housing Development Finance
Corporation Ltd.

...

Plaintiff

Versus

Express Industrial Services
Pvt. Ltd. and Ors.

...

Defendants

Mr. Pravin Samdani i/by Priya Dwarkadas i/by Wadia
Gandhy & Co. for Plaintiffs.

Mr. D.P. Desai for Defendant nos. 1 to 3.

Mr. Santosh Naik, S.O. representative of Court
Receiver.

CORAM : A.M. KHANWILKAR,J.

DATED : JUNE 13, 2005

P.C.

. Heard counsel for the parties. Perused
pleadings and report of the Court Receiver dated
9.3.2005.

. This application is originally filed on 7.1.2005
praying for condonation of delay in depositing the
monthly royalty in respect of the disputed
premises. It is further prayed that eight months
time be granted from February, 2005 for depositing
the arrears with the Court Receiver towards monthly
royalty for the period from August, 2002 to March,
2003 aggregating to Rs.4,00,000/-, at the rate of

Rs.50,000/- per month.

. After hearing counsel for the parties and going through the records, I am in agreement with the submission canvassed on behalf of the Plaintiffs that the defendants are persistent defaulters and are in arrears for the period from August, 2002 till March, 2003. Further it is only after the Court receiver threatened the defendants, the applicant/defendant thought it appropriate to move this court in Jan. 2005 for the relief as referred to above. Even though the relief originally claimed in the application is to grant eight months time for paying the entire arrears in installment commencing from February, 2005, however, across the bar, it is argued on behalf of the defendant that because of financial hardship, defendants would be able to pay maximum sum of Rs.50,000/- in 11 monthly installments from now. As mentioned earlier, I find substance in the argument canvassed on behalf of the Plaintiff that defendants are persistent defaulters. They are in arrears for the period between August, 2002 to March, 2003. They have now offered to clear arrears for the said period being sum of Rs. 4 lacs. at the rate of Rs.50,000/- per month only after the court receiver suggested stern action in respect of the disputed

premises. In my opinion, therefore, no further indulgence can be shown to the defendants. However, in the interest of justice, defendants are granted last opportunity to clear all the arrears as on date, which is agreed between the parties being Rs.5,50,000/-, on or before 30.9.2005, failing which it will be open to the court receiver to proceed against defendant as may be permissible in law. In addition to paying arrears before the end of September, 2005, defendant shall regularly deposit royalty amount now determined by the Division Bench of this court at the rate of Rs.1,50,000/- for the period from June, 2005. In case of any default, the Court Receiver will be free to proceed against defendants in respect of the suit premises in accordance with the law. Chamber summons disposed of with above observations. No order as to costs.

(A.M. KHANWILKAR,J.)